

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
DTE GAS COMPANY)	
for <i>ex parte</i> approval to reduce its gas-in-kind rates)	Case No. U-18212
beginning December 1, 2016.)	
_____)	

At the December 9, 2016 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER

On November 23, 2016, DTE Gas Company (DTE Gas) filed an application seeking *ex parte* approval of a request to reduce the company's gas-in-kind (GIK) rates beginning December 1, 2016.¹ Specifically, DTE Gas is seeking authority to begin charging the unopposed GIK rates²

¹ DTE Gas attached an affidavit from Jennifer C. Schmidt, a Principal Project Manager employed by DTE Energy Corporate Services LLC, in support of its factual allegations. Exhibit A attached to the affidavit of Ms. Schmidt provides DTE Gas's tariff sheets reflecting the proposed GIK rates.

² GIK rates do not apply to sales customers, only to gas transportation customers. GIK is not expressed or applied as a dollars per volumetric rate. Rather, the existing GIK tariff allows the utility to "retain 1.66% of all gas received at the receipt point to compensate for company use and lost and unaccounted for gas on Company's system except for XXLT 1 & 2 [rate customers] where the rate is 1.116%."

proposed in Case No. U-17999, the company's currently pending general rate case proceeding, as of December 1, 2016.³ DTE Gas explains that the final rates in Case No. U-17999, including its new GIK rates, would otherwise not go into effect until mid-December 2016, which will present a problem for its customers if nothing is done.

According to DTE Gas, a mid-month GIK implementation for the company's End Use Transportation (EUT) and Midstream customers should be avoided because these customers need to arrange deliveries of gas to DTE Gas's system on a known GIK rate prior to securing gas for delivery onto the company's system. Because transportation customers arrange for December deliveries into DTE Gas's system in November, DTE Gas believes that it is impractical and in some cases impossible for the transportation customers to change their deliveries in mid-December to adjust for new GIK rates. DTE Gas also maintains that it could be a hardship to its customers if DTE Gas were to reduce the GIK rates mid-month, which could subject some of the transportation customers to additional charges for over-deliveries of gas and cause these customers to deal with unnecessary gas management issues.

Moreover, DTE Gas insists that its nomination system (eNominator) and its EUT billing System (GTS) are not capable of handling a mid-month GIK rate change. According to DTE Gas, mid-month GIK changes will have to be handled manually or implemented using a blended rate. DTE Gas explains that although GIK changes in GTS can be implemented with a blended rate after the actual rates and effective dates are known, in order to implement a blended rate for eNominator, rates and effective dates must be known or estimated prior to the beginning of the

³ In a separate order issued today in Case No. U-17999, the Commission issued its final decision in DTE Gas's rate case order, which did approve a reduction to the company's GIK rates effective December 16, 2016.

month. In either case, DTE Gas maintains that its customers would not know the actual GIK rate until the end of the month.

DTE Gas states that its eNominator system does not allow the utility to change GIK percentages in the middle of a month, which means that if DTE Gas had desired to attempt to estimate a mid-December GIK change in November, then it would have had to calculate an average percentage rate by guessing the number of days such rate would actually be effective during December.

According to DTE Gas, the most practical solution to this problem is for the Commission to permit the company to implement the GIK rates proposed and unopposed in Case No. U-17999 as of December 1, 2016. In support of this request, DTE Gas stresses that all of the proposed GIK rates in Case No. U-17999 are lower than the company's existing GIK rates, so no customer would provide more gas for GIK than it is doing under currently effective rates established in Case No. U-16999, which will permit the Commission to approve the GIK rate change on an *ex parte* basis.

The Commission finds that DTE Gas's November 23, 2016 application should not be approved. The reason for the denial is not related to the *ex parte* nature of the approval DTE Gas has requested. DTE Gas's request would require the Commission to formally sanction retroactive ratemaking, which is fundamentally adverse to the tenets of utility regulation in the vast majority of circumstances. While there are exceptions, those situations generally are provided for by statute. DTE Gas has provided the Commission with no statutory justification for concluding that approval of its application will not involve retroactive ratemaking.

The Commission realizes that left to chance DTE Gas had no way to ensure that a Commission order that will place a GIK rate reduction or increase into effect would become effective on the precise date that is required for the company and its customers to avoid the

problems that approval of this order are meant to avoid. However, DTE Gas could have reasonably anticipated at the time it filed the application in Case No. U-17999, or at least well before November 23, 2016, that the odds of having the Commission issue its rate case order on the exact time of the month necessary to avoid these concerns were quite unlikely to occur.

The Commission does not doubt that DTE Gas sought approval of the application to spare its EUT and Midstream customers from any possibility of being required to pay additional charges for over-deliveries of gas and to spare these customers from having to deal with unnecessary gas management issues. Indeed, the Commission suspects that the company may have filed the application in hopes of alerting its transportation customers to the situation in time for them to adjust their December deliveries accordingly. According to the Commission Staff, DTE Gas may be currently utilizing the GIK rates requested in this application and approved today in the Case No. U-17999 order.

The Commission finds that no customer should be harmed by either DTE Gas's decision to implement a rate without Commission approval or by the Commission's denial of permission to do what has already been done. Therefore, to the extent that GIK rates consistent with this order would result in penalties to customers or additional gas deliveries from customers (to their detriment), DTE Gas shall either waive such penalties or additional gas deliveries or absorb them.

In the future, the Commission expects DTE Gas to avoid the problems presented in this case by either proposing a solution in its rate case application, revising contractual and tariff provisions to address mid-month GIK rate changes, or simply by not waiting until after the final Commission meeting of the month to file an application seeking a GIK rate change that must be made effective as of the beginning of the next month.

THEREFORE, IT IS ORDERED that the November 23, 2016, application filed by DTE Gas Company for *ex parte* approval to reduce its gas-in-kind rates beginning December 1, 2016 in accordance with the tariff sheets that were attached to its application as Exhibit 1 is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

By its action of December 9, 2016.

Norman J. Saari, Commissioner

Kavita Kale, Executive Secretary

Rachael A. Eubanks, Commissioner